



BellSouth Telecommunications, Inc.

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Joelle J. Phillips
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November 1, 2001

VIA HAND DELIVERY

Mr. David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: *Petition for Expedited Review of Growth Code Denial by the North
American Number Plan Administration Relating to University of
Tennessee - Chattanooga*
Docket No. 01-00957

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Petition for Expedited Review of Central Office Code Denial as it relates to the University of Tennessee - Chattanooga.

Cordially,



Joelle Phillips

JP/jej

Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee**

In Re: *Petition for Expedited Review of Growth Code Denials by the North American Numbering Plan Administration Relating to University of Tennessee - Chattanooga*

Docket No. 01-00957

Filed: November 1, 2001

PETITION FOR EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to rules adopted by the FCC for challenging determinations of the North American Numbering Plan Administrator ("NANPA"), petitions the Tennessee Regulatory Authority (the "Authority") for review of NANPA's denial of BellSouth's application for use of central office code numbering resources in the 423 area code.

BellSouth respectfully shows the Authority as follows:

1. BellSouth is a telecommunications public utility regulated by the Authority providing intraLATA, local exchange telecommunications services in the Chattanooga Rate Center.

2. On March 31, 2000, the Federal Communications Authority issued a Report and Order and Further Notice of Proposed Rule Making relating to numbering resource optimization ("FCC 00-104" or the "March Order"). On December 29, 2000, the FCC issued its Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of

Proposed Rulemaking in CC Docket No. 99-200 ("FCC 00-429" or the "December Order"). These FCC orders addressed issues and strategies relating to the efficient use of numbering resources.

3. In FCC 00-104 and FCC 00-429, the FCC announced rules and sought comment in an effort to implement uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of existing telephone numbers and to slow further exhaustion of existing numbers under the NANP.

4. Among other things, FCC 00-104 adopted a revised standard for assessing a carrier's need for numbering resources by requiring rate center based utilization rates to be reported to NANPA. The FCC further required that to qualify for access to new numbering resources, applicants must establish that existing inventory within the applicant's rate center will be exhausted within six months of the application. Prior to this ruling, the Central Office Code Assignment Guidelines, used by the industry and NANPA to make code assignments, required the applicant's existing number inventory within the applicant's serving switch to exhaust within six months of the code application on order for a code to be assigned.

5. This shift to a "rate center" basis for determining the need for new numbering resources was intended to "more accurately reflect how numbering resources are assigned" and to allow "carriers to obtain numbering resources in response to specific customer demands." FCC Order ¶105. BellSouth has sought

reconsideration of the MTE rule before the FCC on two separate occasions. The most recent petition for reconsideration was filed on March 12, 2001 and has yet to be addressed by the FCC.

6. On or about September 18, 2001, BellSouth submitted Central Office Code (NXX) Assignment Request - Part 1, and the CO Code Assignment - Months to Exhaust Certification Worksheet, to NANPA to obtain NXX resources necessary to meet the demands of its customer, University of Tennessee - Chattanooga ("UT"). The request and worksheet are attached hereto as Exhibits "A" and "B" respectively.

7. The reservation request was for a growth code in the 423 NPA area code, in response to UT's request for a single NXX for its Direct Inward Dial ("DID") numbers and the ability to assign those DID numbers in five specific thousands groups within that NXX code. UT cited its desire to reduce its customers' confusion on the current service arrangement as its basis for this request. However, BellSouth did not have sufficient number resources available within its inventory in the Chattanooga Rate Center, and, accordingly, BellSouth was unable to provide UT with sufficient numbers to meet its needs. For this reason, BellSouth sought the numbering resources as noted above.

8. BellSouth completed the applications in accordance with NANPA's Central Office Code (NXX) Assignment Guidelines and completed the necessary Months to Exhaust Certification Worksheet required by NANPA.

9. Based upon the Chattanooga rate center that was used to calculate BellSouth's months-to-exhaustion, BellSouth's rate center numbering resources would exhaust in approximately 31.88 months.

10. Despite the fact that BellSouth's entire Chattanooga rate center may not exhaust for 31.88 months, BellSouth is unable to provide the requested service through its switches that serves UT within the Chattanooga rate center. This is because the individual switch that serves this customer within the Chattanooga rate center does not have sufficient number resources to meet the customer's request.

11. On or about October 18, 2001, NANPA's Central Office Code Administration denied the reservation request on the grounds that BellSouth had not met the rate center based months-to-exhaust criteria now set forth in the Central Office Code (NXX) Guidelines, notwithstanding the fact that BellSouth does not have the numbering resources needed to satisfy its customers' demands in the switches at issue. That decision is attached hereto as Exhibit "C."

12. BellSouth's inability to provide this large business customer with the requested numbers within the same NXX prevents BellSouth from providing the quality of service this customer desires and expects, and thereby prevents UT from providing its customers with the quality of service that it wishes. (Correspondence from UT is attached as Exhibit "D").

13. Granting BellSouth's request for numbering resources would not materially impact exhaustion of available numbers in the 423 NPA. In fact,

BellSouth calculates that supplying the numbers required to meet UT's needs will affect the projected exhaust date of the 423 NPA by less than one month. According to NANPA, based on the 2001 NRUF and NPA Exhaust Analysis - June 1, 2001 Update, the projected exhaust date of the 423 NPA is the 4th Quarter, 2004.

14. Both FCC 00-104 and NANPA's Central Office Code (NXX) Guidelines provide that state regulatory authorities have the power and authority to review NANPA's decision to deny a request for numbering resources. See FCC 00-104, Appendix A, Final Rules, § 52.15(g) (3) (iv) ("The carrier may challenge the NANPA's decision to the appropriate state regulatory authority"); NANPA Central Office Code (NXX) Guidelines § 13.0 ("Appeals may include but are not limited to one or more of the following options: . . . C. The CO Code Administrator(s) and code holders/applicants may pursue the disagreement with the appropriate governmental/regulatory body").

15. State regulatory agencies in both North Carolina and Florida have recognized their jurisdiction and authority to review NANPA denials and to order the release of numbering resources to meet specific customer needs. The North Carolina Utilities Commission has ordered NANPA to provide BellSouth numbering resources needed to meet the service requirements of Guilford County Government and Corning, Inc., even though BellSouth had been unable to satisfy the required months-to-exhaust criteria. See *In the Matter of Petition of BellSouth Telecommunications, Inc. for Review of NANPA Denial of Application for*

Numbering Resources, Docket No. P-55, Sub 1268, Order Ruling on the BellSouth Petition (attached as Exhibit "E"). Similarly, on May 1, 2001, the Florida Public Service Commission voted to accept the recommendation of its staff that NANPA should be ordered to release numbering resources to BellSouth in order to enable BellSouth to meet the needs of a customer requesting 2500 numbers, even though BellSouth could not satisfy the months-to-exhaust criteria. See Staff Recommendation Re: Docket No. 010309-TL – *Petition by BellSouth Telecommunications, Inc. for an Expedited Review of the NANPA Denial of a Central Office Code for the Orlando Magnolia Switch* (attached as Exhibit "F").

16. The Authority, and not the FCC, is the most appropriate body to address this appeal. As noted above, the Authority has been granted jurisdiction to hear appeals from NANPA's decisions regarding numbering resources. Any jurisdiction of the FCC to do the same is merely concurrent with the jurisdiction of the Authority. BellSouth believes that the Authority can more quickly address the numbering problem facing UT and BellSouth, and, because time is of the essence to the customer, BellSouth believes it is appropriate to pursue this matter in the forum that can most quickly address the issue.

17. Under earlier months-to-exhaust procedures used by NANPA, waivers or exceptions were granted where customer hardships could be demonstrated or where the service provider's inventory did not have a block of sequential numbers large enough to meet the customer's specific request. Under existing procedures, NANPA looks at the number of months-to-exhaust for the entire rate center without

any exceptions. The current process for review is arbitrary and results in decisions contrary to the public interest and decisions that do not necessarily preserve the efficient use of telephone numbers or postpone dates of exhaust. Moreover, the denial of sufficient numbering resources to BellSouth to meet UT's request is inconsistent with the FCC's position that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources." FCC 00-429 at ¶ 61. By refusing to grant numbering resources sufficient to meet UT's needs, the NANPA is preventing UT from obtaining the service of its choice from its carrier of choice, BellSouth.

18. Unfortunately, BellSouth's experience with the NANPA denial relating to UT's request is unlikely to be the last time this problem arises. [BellSouth has already lost one customer in this rate center when BellSouth was unable to obtain sufficient numbering resources to meet that customer's needs. BellSouth was unable to appeal the NANPA denial within the customer's time constraints]. Notwithstanding customer need for a specific numbering arrangement, BellSouth's analysis indicates that BellSouth will be unable to meet the six months-to-exhaust threshold at the rate center level in time to obtain adequate numbering resources to serve this customer absent relief from the Authority. This situation will result in BellSouth's inability to respond to its customer's needs for specific numbering resources.

CONCLUSION


19. For the reasons articulated above, BellSouth respectfully urges the Authority to direct the NANPA to provide the requested numbers to BellSouth to enable BellSouth to meet the specific requirements of UT in order that UT may receive the service of its choice from the provider of its choice to meet its telecommunications needs.

WHEREFORE, BellSouth requests:

1. The Authority review the decision of the NANPA to deny BellSouth's request for additional numbering resources; and
2. The Authority direct the NANPA to provide numbers to BellSouth to meet the specific requirements of UT in the Chattanooga 423 NPA.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



Guy M. Hicks

Joelle Phillips

333 Commerce Street, Suite 2101

Nashville, Tennessee 37201-3300

(615) 214-6311

EXHIBIT "A"

Central Office Code (NOX) Assignment Request - Part 1

Effective May 18, 1998

chattanooga.doc

1.0 GENERAL INFORMATION

1.1 Contact Information:

Code Applicant:
Company/Entity Name: BellSouth Telecommunications
Contact Name: Barbara Brown
Address: 23595 - 675 West Peachtree Street
City, State, Zip: Atlanta, Ga. 30375
Phone: 770-966-0668 FAX: 770-966-9813 E-Mail: Barbara.Brown@bridges.bellsouth.com
Code Administrator:
Name: Cheryl Dixon
Address: 1500 Gutter Street, Suite 750
City, State, Zip: Concord, CA 94520
Phone: 925-363-9748 FAX: 925-363-9781

1.2 NPA: 423 LATA 472 OCN: 9419
Switching Identification (Switching Entry/POI): CHTGTNDTDSB
Wire Center Name: CHATTANOOGA Rate Center: CHATTANOOGA
Homing Tandem Operating Co.: BST Tandem Homing CLLI: CHTGTNNS84T
Route same as: NPA: 423 NOX: 922 Rate Center same as: NPA: 423 NOX: 922

1.3 Dates: Date of Application: 09/18/01 Requested Effective Date: ASAP

1.4 Type of company/entity requesting the code:

a. LEC

b) Type of service: C.O. CODE - DEDICATED CODE FOR UNIVERSITY OF TENNESSEE
(e.g., Cellular - Type 2)

c) Is certification required? Yes X No

1) If no, explain:

2) Does your company have certification? Yes X No

i) If yes, what type? FRANCHISE PROVIDER (CPCN, etc.)

ii) If no, explain:

d) Code Assignment Preference (Optional)

e) Codes that are undesirable, if any

1.5 Type of Request (Initial, growth, etc) GROWTH

1.6 NPA Jeopardy Criteria Apply: Yes No X

1.7 Code request for new application (Explain): DEDICATED CODE FOR UNIVERSITY OF TENNESSEE

1.8 Part 2 is attached Part 2 is not attached X for RDBS & BRDS¹⁰

I hereby certify that the above information requesting an NOX code is true and accurate to the best of my knowledge and that this application has been prepared in accordance with the Central Office Code (NOX) Assignment Guidelines in effect as of May 18, 1998¹¹.

Barbara Brown
Signature of Code Applicant

BST CODE ADMINISTRATOR
Title

Sept 18, 2001
Date

It should be noted that interconnection arrangements and facilities need to be in place prior to activation of a code

EXHIBIT "B"

CO CODE ASSIGNMENT

MONTHS TO EXHAUST CERTIFICATION WORKSHEET - TM Level¹
(Worksheet to be used for Requests for Additional Codes for Growth)Date: 9/18/2001 Company Name: BellSouthRate Center: Chattanooga

423-288, 221, 275, 296, 345, 480, 485, 490, 495, 510, 515, 521, 550, 553, 519, 546, 555, 572, 59.
 NPA(s)-NOCs included in growth calculation: 844, 809, 954, 706-891, 423-493, 495, 622, 624, 629, 677, 698, 326, 344, 842, 843, 847, 634, 209, 265, 26
267, 269, 289, 290, 321, 386, 442, 644, 655, 648, 157, 752, 755, 756, 757, 762, 763, 778, 785, 814
706-630, 423-870, 874, 875, 876, 877, 821, 81, 706-858, 861, 866, 384, 821, 822, 825, 706-820

Signature of Authorized Representative of Code Applicant: Barbara BabinTitle: BSR Code Administrator Telephone No.: 770-966-0868 FAX No.: 770-966-9813A. Telephone Numbers (TINs) Available for Assignment (See Glossary): 97,063

Month 01	Month 02	Month 03	Month 04	Month 05	Month 06	Month 07	Month 08	Month 09	Month 10	Month 11	Month 12

B. Previous 6-month growth

History⁴

2321	3609	2958	2935	2444	2935
------	------	------	------	------	------

C. Forecast - Next months 1-125

3044	3044	3044	3044	3044	3044	3044	3044	3044	3044	3044	3044
------	------	------	------	------	------	------	------	------	------	------	------

D. Average Monthly Forecast (Sum of months 1-6 Part C above divided by 6): 3044E. Months to Exhaust⁵ =

Telephone Numbers (TINs) Available for Assignment =

(A)

Average Monthly Forecast (D)

$$= \frac{97063}{3044} = 31.88 \text{ months}$$

F. Utilization Level⁷ =

Telephone Numbers (TINs) Assigned

X 100

= 68.9 %

Total Numbering Resources in Applicant's Inventory

Explanation: Dedicated rate for University of Tennessee

1. A copy of this worksheet is required to be submitted to the Code Administrator, for each performance, and must be in the applicant's file.
2. Report on all resources for the requested geographic area, including newly acquired codes.
3. Definitions of terms may be found in the Glossary section of the Central Office Code (NOC) Assignment Guidelines.
4. Add change in TINs no longer available for assignment in each previous month, starting with the most distant month as Month 01, and Month 06 as the current month.
5. Forecast of TINs available in each following month, starting with the most recent month as Month 01.
6. To be assigned an additional CO Code (NOC) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 80-104, § 82.15 (b) (3) (ii)).
7. Newly acquired numbers (see glossary) may be excluded from the utilization calculation. (FCC 80-104, § 82.15 (b) (3) (ii)).

EXHIBIT "C"

Central Office Code (NXX) Assignment Request - Part3
Effective May 18, 1998

Code Request Tracking Number: 423-130001

Administrator's Response/Confirmation

Date of Application: September 28, 2001 Date of Receipt: October 8, 2001
Date of Response: October 18, 2001 Effective Date: _____
Company/Entity Name: BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL
Code Administrator Contact Information:
Terah Adger Phone: 9253638705
Signature of Code Administrator
Terah Adger Fax: 9253638714
Name (print)

☒ NPA: 423 Code Assigned: _____ Date of NXX Code Assignment: _____
a. Switch Identification (Switching Entry/POI): CHTGTNDTDS0 Rate Center: CHATTNOOGA
b. The Code Administrator is _____ is not ☒ responsible for inputting Part 2 information into RDBS and BRDS.
c. Routing and Rating information complete: Yes _____ No ☒
Additional RDBS and BRDS information necessary as follows:
No

d. To be published in the LERG and TMP by _____
Additional RDBS and BRDS information needs to be received by the code administrator no later than _____
Code Reserved: _____ Date of Reservation: _____
Your code will be honored until _____
Switch Identification (Switching Entity / POI): _____

Form Incomplete
Additional information required in the following section(s):
1) Months to exhaust exceeds 6.0 months (MTE Worksheet #E = 31.88) 2) Mandatory fields on a Months to Exhaust are Inaccurate or Incomplete

☒ Form complete, code request denied

Explanation: _____

Assignment activity suspended by the administrator

Explanation: _____

Further Action: _____

☒ NPA in jeopardy: Yes _____ No ☒

If yes, refer to Section 7 of the assignment guidelines.

Change/Disconnect List: _____

Remarks:

OCN 9419- According to the Central Office Code Assignment Guidelines, Section 4.2.1, code holders requesting growth codes must demonstrate that existing codes within the rate center will exhaust within 6.0 months. In addition, Section A is not completed on your Month's To Exhaust Worksheet (N'S Available for Assignment). If you are in disagreement with the disposition of this code request, please refer to the Central Office Code (NXX) Assignment Guidelines for the appeals process.

EXHIBIT "D"

THE UNIVERSITY OF TENNESSEE
AT CHATTANOOGA



Communication Services
Dept 4054
615 McCallie Avenue
Chattanooga, TN 37403-2598
(423) 755-4784
FAX: (423) 785-2200

August 24, 2001

David Patterson
BellSouth Business
410 North Cedar Bluff Road
Suite 300
Knoxville, Tennessee 37923

Dear David

Thank you for your excellent service as the UTC BellSouth account representative. I appreciate the longevity that you have brought to this position.

To reduce customer confusion on telephone service The University of Tennessee at Chattanooga requests BellSouth assign a single NNX for DID numbers owned by the University. We would like to have assigned the 1000, 2000, 4000, 5000, 6000 groups with this single NNX. Currently the University has active numbers assigned to the following NNXs, 755, 756, 757, 785 and J21. Several of these are shared with other large BellSouth customers and by freeing up the UTC portion of the exchanges you could improve the service to your other customers.

Please keep the University informed on the status of this request so they we will have sufficient time to implement the change.

Sincerely

A handwritten signature in dark ink, appearing to read "Mandy Wilson", written over a horizontal line.

Mandy Wilson
Assistant Vice Chancellor
Information Technology

EXHIBIT "E"

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-55, SUB 1268

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of BellSouth Telecommunications, Inc.,)	ORDER RULING ON THE
for Review of NANPA Denial of Application)	BELLSOUTH PETITION
for Numbering Resources)	

BY THE COMMISSION: On March 6, 2001, BellSouth Telecommunication, Inc. (BellSouth) requested that the Commission review the North American Numbering Plan Administrator's (NANPA) decision denying the reservation of two central office codes (NXXs) in the 910 and 836 Numbering Plan Areas (NPAs). Reservation of one NXX was requested for Guilford County Government and one NXX was requested for Corning, Inc., from NANPA.

NANPA, in reaching its decision to deny the numbering resources, stated that BellSouth's Month-to-Exhaust worksheet shows that BellSouth has more than a six month supply of numbering resources in the two central offices which would be providing services to these customers, respectively. However, BellSouth stated that it does not have in its inventory 10,000 sequential numbers (i.e., one NXX) in each NPA available to meet the service requirement for these two customers.

There were no comments filed on this matter before the Commission.

WHEREUPON, the Commission now reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that NeuStar, Inc., as NANPA, should provide BellSouth the numbering resources needed to meet the needs of Guilford County Government and Corning, Inc. The Commission notes that BellSouth, as a telecommunications service provider, should be allowed to meet its specific customer requirements. Furthermore, the reservations of numbering resources in this instance represent identifiable and known market requirements. The Commission also recognizes that NANPA in reaching its decision must recognize and use industry guidelines to ensure consistent decision-making among all industry participants.

IT IS, THEREFORE, ORDERED as follows:

1. That NANPA shall provide BellSouth the numbering resources it needs to meet the service requirements for Guilford County Government and Corning, Inc.

2. That the numbering resources assigned by BellSouth to Guilford County Government and Corning, Inc., shall be done in a sequential numbering manner to optimize these resources.

3. That these numbering resources shall be subject to reclamation if not used within the allowable reservation period according to industry guidelines.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of April, 2001.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Geneva S. Thigpen".

Geneva S. Thigpen, Chief Clerk

dn040801.02

EXHIBIT "F"

WARNING:

Changes in appearance and in display of formulas, tables, and text may have occurred during translation of this document into an electronic medium. This HTML document may not be an accurate version of the official document and should not be relied on.

For an official paper copy, contact the Florida Public Service Commission at contact@psc.state.fl.us or call (850) 413- 6770. There may be a charge for the copy.

BEFORE THE FLORIDA PUBLIC SERVICE

COMMISSION

In re: Petition for expedited review of North American Plan Administration's (NANPA) denial of application for use of central office code numbering resources or NXX codes in Orlando Magnolia switch by BellSouth Telecommunications, Inc. DOCKET NO. 010309-TL
ORDER NO. PSC-01-1146-PAA-TL
ISSUED: May 21, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman J. TERRY DEASON LILA A. JABER BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION ORDER DIRECTING NANPA TO PROVIDE BELL SOUTH WITH A GROWTH CODE FOR THE ORLD FLMADS1 SWITCH

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, *Florida Administrative Code*.

- **BACKGROUND**

On January 24, 2001, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the ORLD FLMADS1 switch in the Orlando rate center. The code request was made to fulfill a request made by a specific customer who is in need of 2,500 consecutive Direct Inward Dialing (DID) numbers in an NXX with a four as the last digit (NX4).

The Orlando rate center consists of six central offices and seven switches [(Azalea Park (ORLD F LAPDS0), Colonial (ORLD F LCLDS0), Magnolia (ORLD F L MADS1 and ORLD F L MA42E), Pinecastle (ORLD F L PCDS0), Pinehills (ORLD F L MADS0), and Sand Lake (ORLD F L SADS0)]. On February 6, 2001, NANPA denied BellSouth's request for a NXX code for the ORLD F L MADS1 switch because BellSouth had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code. On March 9, 2001, BellSouth filed a petition for expedited review of NANPA's denial of its application.

We are vested with jurisdiction pursuant to Sections 364.01 and 364.16(4), *Florida Statutes*, and 47

U.S.C. §151, and 47 C.F.R. §52.15(g)(3)(iv).

ANALYSIS

As mentioned above, BellSouth submitted an application to the NANPA for a NXX code for the ORLFLMADS1 switch in the Orlando rate center and was denied because BellSouth had not met the rate center MTE criteria currently required to obtain a growth code. Subsequently, BellSouth submitted a Petition to us for expedite review of NANPA denial of its application. In its prayer for relief, BellSouth requests us to review NANPA's denial and direct NANPA to release a growth code for the ORLFLMADS1 switch in the Orlando rate center.

Prior to March 31, 2000, carriers submitting an application for a growth code had to certify that existing codes associated with that switch, Point of Interface (POI), or rate center would exhaust within 12 months. In jeopardy Numbering Plan Areas (NPAs), applicants seeking a growth code had to certify that existing NXX codes would exhaust within six months.

Pursuant to Order No. FCC 00-104¹ applicants must now show the MTE criteria by rate center instead of by switch, and have no more than a six-month inventory of telephone numbers. Pursuant to 47 C.F.R. § 52.15(g)(3)(iii):

All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

We believe that the new MTE criteria creates a disadvantage for carriers with multiple switch rate centers because it is now based on rate centers, rather than switches. One switch in a multiple-switch rate center may be near exhaust while the average MTE for the rate center is above six months, thus preventing a carrier from obtaining a growth code for the switch near exhaust. For example, at the time of the NANPA denial of BellSouth's code request, the Orlando rate center MTE was 14.74 months with a 76.7% utilization level, while the MTE for the Magnolia-ORLDFLMADS1 switch was four months. BellSouth has stated that "Months-to-Exhaust criteria on a per rate center basis establishes a requirement that is difficult, and in some cases, impossible to meet."

We conclude that the code denial also poses a possible barrier to competition. A customer desiring service from BellSouth may have to turn to another carrier simply because BellSouth cannot meet the MTE rate center requirement. Another carrier who may have just one switch in the rate center, would have an advantage and may be able to obtain a growth code to provide the service. In Order No. DA 01-386², the FCC stated:

Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of ¹Report and Order, CC Docket No. 99-200, In the Matter of Number Resource Optimization, Order No. FCC 00-104 (March 31, 2000) ²DA 01-386, CC Docket No. 99-200, CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (February 14, 2001) their choice for want of numbering resources.

FCC No. DA 01-386 at ¶11.

We find that another dilemma created with the new MTE rate center criteria is rate center consolidation. The FCC promotes rate center consolidation as a number conservation measure, and encourages states to consolidate rate centers wherever possible. The problem arises when you attempt to consolidate small rate centers which may have one switch and end up with one rate center with multiple switches. In Order No. FCC 00-429³, the FCC states:

Some ILECs suggest, however, that the utilization threshold should be calculated on a per-switch basis in rate centers that have multiple switches, particularly where they have not

deployed LNP capability. According to BellSouth, in the absence of thousands-block number pooling, numbers cannot be shared easily among multiple switches in the same rate center. They assert that there are technical constraints on their ability to share numbering resources among multiple switches within the same rate center and that a low utilization rate in one or more switches could prevent it from meeting the rate center utilization threshold. SBC argues in its comments that the utilization threshold should be calculated at the "lowest code assignment point" the rate center, where there is only one switch, or the switch, where there is more than one in a rate center.

Order No. FCC 00-429 at ¶ 32.

We believe that number pooling may assist in obtaining growth codes in a multiple switch rate center, however, BellSouth cannot support intra-service provider porting between switches until thousands-block pooling is implemented in the Orlando Metropolitan Statistical Area. The 407 NPA currently does not have a pooling trial, but new area code relief for this NPA has already begun with the initial industry planning meeting which took place April 3, 2001. Number pooling for this area, along with other number conservation measures for the 407 NPA, will be examined in that docket.

We note that two other state commissions have addressed NANPA's denial of growth codes. BellSouth included in its petition an order issued by the State of North Carolina Utilities Commission addressing NANPA's denial of two growth codes because BellSouth did not meet the new MTE rate center requirements.⁴ BellSouth had two large customers, in need of NXX codes. One customer requested 10,000 sequential numbers, and the other customer needed to utilize approximately 6,000 numbers immediately for the establishment of a call center. The North Carolina Commission overturned NANPA's denial of the two NXX codes, and directed NANPA to provide numbers to meet the specific requests of Microsoft and Duke Energy.

The Public Service Commission of Wisconsin addressed a similar issue in its Docket 5-TK-101, Ameritech's Challenge of Neustar's Denial of a Request for a Central Office Growth Code at the Appleton Exchange, mailed December 22, 2000. In that case, Ameritech was denied a growth code because its MTE estimate was 7.4 months based on the rate center criteria, which is above the six month maximum MTE required by 47 C.F.R. § 52.15(g)(3)(iii). Ameritech requested the growth code to fulfill a request by two large customers who each wanted five-digit dialing for internal calls and specifically requested to have an eight as the third digit of the NXX code. In ³Second Report and Order, Order on Reconsideration, CC Docket No. 99- 200 and CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, et. al., Order No. FCC 00-429 (December 29, 2000) ⁴ State of North Carolina Utilities Commission, Order Granting Reserved Numbers, issued January 16, 2001, in Docket No. P-55, Sub 1250, In the Matter of Petition of BellSouth Telecommunications, Inc. for Review of NANPA Denial of Application for Numbering Resources. its Order, the Wisconsin PSC overturned NANPA's decision to deny a growth code, and directed NANPA to provide Ameritech with a growth code.

A procedure is available to carriers who are denied growth codes because of the rate center MTE requirement. Addressing NXX growth code denials, 47 C.F.R. § 52.15(g)(3)(iv), states, in part:

The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

BellSouth has provided us with the name of the customer requesting the 2,500 codes, copies of its NANPA application for a new growth code, copies of its MTE worksheet for the Orlando rate center, and copies of the Part 3 form from NANPA denying the code. We contacted BellSouth's proposed customer via telephone and verified that the customer wants BellSouth as its provider of service. We also verified with NANPA that there would be minimal impact on the 407 NPA by releasing a new growth code for this switch. We also reviewed the BellSouth utilization data for the ORLDFLMADS1 switch in the Orlando rate center to verify that BellSouth has no available codes to meet this specific customer's needs.

In evaluating BellSouth's petition, we have utilized the following factors and concluded that:

- 1) BellSouth has demonstrated that it has a customer in need of numbering resources;
- 2) BellSouth has shown that it is unable to provide services to a potential customer because of NANPA's denial of the NXX code;
- 3) There are potential competitive concerns because of the NANPA code denial since the potential customer cannot choose the provider of his choice; and,
- 4) There would be minimal impact to the 407 NPA by releasing a new growth code.

CONCLUSION

Based on the foregoing, we find it appropriate to overturn NANPA's decision to deny a growth code, and direct NANPA to provide BellSouth with a growth code for the ORLDFLMADS1 switch as soon as possible. We also find that once the specific customer needs are met, BellSouth shall keep as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North American Numbering Plan Administrator shall provide BellSouth Telecommunications, Inc. with a growth code for the ORLDFLMADS1 switch in the Orlando rate center as soon as possible. It is further

ORDERED that BellSouth Telecommunications, Inc. shall maintain as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling once the specific customer needs are met. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, *Florida Administrative Code*, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 21st day of May, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

(S E A L)
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), *Florida Statutes*, to notify parties of any administrative hearing that is available under Section 120.57, *Florida Statutes*, as well as

the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, *Florida Administrative Code*. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 11, 2001.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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